

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 64-103

5 JUNE 2015



Contracting

**LEASING NON-EXCESS USAF AIRCRAFT,
AIRCRAFT –RELATED EQUIPMENT AND
OTHER PERSONAL PROPERTY TO NON-
GOVERNMENT ORGANIZATIONS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This Air Force Instruction (AFI) identifies procedures and responsibilities for leasing U.S. Air Force non-excess personal property, including aircraft and related equipment, to non-government organizations. This instruction does not apply to leases of non-appropriated fund personal property or to military leases of U.S. property to foreign governments or international organizations under Chapter 6 of the Arms Export Control Act. This AFI applies to all active and reserve components of the United States Air Force (AF), including Air National Guard (ANG), and Air Force Reserve Command units. This instruction aligns with AAFP 64-1, *The Contracting System*, and implements, in part, Title 10 United States Code (U.S.C.), Section 2667, as amended. It also complements: 1) DoD 7000.14-R, *Department of Defense Financial Management Regulation (DoD FMR)*, Vol.11A, "Reimbursable Operations, Policy, and Procedures," Chapter 4, "User Fees"; 2) *DoD Financial Management Regulation 7000.14-R*, Vol. 12, "Special Accounts, Funds and Programs," Chapter 14, "Transferring, Disposing, and Leasing of Real Property and Personal Property"; and 3) DoD Instruction 7230.08, *Leases and Demonstrations of DoD Equipment*.

This AFI may be supplemented at any level, but all supplements that directly implement this publication must be routed to SAF/AQCP for coordination prior to certification and approval. This document does not contain any wing/unit level mandates; all mandates shall be treated as Tier-0 as identified in AFI 33-360, *Publications and Forms Management*, Table 1.1. Submit requests for waivers through the chain of command to the Publication Office of Primary Responsibility (OPR). Ensure that all records created as a result of processes prescribed in this publication are maintained IAW AFMAN 33-363, *Management of Records*, and disposed of IAW the Air Force Records Disposition Schedule (RDS) located in the Air Force Records

Information Management System (AFRIMS). Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Forms 847 from the field through the appropriate functional chain of command.

SUMMARY OF CHANGES

This document is substantially revised and must be completely reviewed. This publication has been revised and must be completely reviewed. This rewrite of AFI 64-103 updates referenced publications, reflects current statute, and streamlines content. This rewrite also includes a compliance statement regarding tiering IAW AFI 33-360.

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Chapter 1

OVERVIEW

1.1. Purpose. In accordance with Title 10 U.S.C., Section 2667, the Air Force (AF) is authorized to lease certain non-excess property – including aircraft, aircraft-related equipment, and other forms of personal property – to non-Governmental entities (e.g. defense contractors, industry associations) when the Assistant Secretary of the Air Force (Acquisition), as delegated by the Secretary of the Air Force in Headquarters Air Force Mission Directive (HAFMD) 1-10, determines that it is advantageous to do so and can be leased without adversely impacting military readiness.

1.2. Applicability and Limitations.

1.2.1. Air National Guard (ANG). The ANG will follow the procedures in this instruction for lease requests of aircraft and related equipment. For other (non-aircraft or related equipment) non-excess property under their control, the ANG may process corresponding lease requests in accordance with National Guard Bureau procedures and need not be processed through SAF/AQ. Any such procedures shall address risk of loss and liability for damage to the leased property.

1.2.2. Foreign Governments. This instruction does not apply to military leases of defense articles to foreign governments or international organizations under the Arms Export Control Act (AECA) Section 61 (Title 22 U.S.C., Section 2796). Pursuant to AECA Section 61(c) (Title 22 U.S.C., Section 2796(c)), defense articles in DoD stocks may not be leased to a foreign government or international organization under the authority of Title 10 U.S.C., Section 2667.

1.2.3. Relevance of Other Authorities. The policies and procedures in this Instruction are in addition to but not intended to supplant other authorities that may be comparable to Title 10 U.S.C., Section 2667, including:

1.2.3.1. Title 10 U.S.C., Section 2681, which directed to the use of Test and Evaluation Installations by commercial entities and implemented by DoD Instruction 32000.18, *Management and Operation of the Major Range and Test Facility Base* (MRTFB), and.

1.2.3.2. Title 10 U.S.C., Section 2539b, which is directed to making available equipment, among other things, to other persons and entities and implemented by DoD Instruction 5535.11, *Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services to Non-DoD Persons and Entities*.

1.2.3.3. Item managers will refer to AFI 23-119, *Exchange, Sale, or Temporary Custody of Nonexcess Personal Property*, for procedures on making nonexcess personal property available to programs.

1.2.4. USAF Assets. Title 10 U.S.C., Section 2667(a)(1) only allows the AF to lease, on a noninterference basis, non-excess personal property that is under AF control.

1.2.5. Commercial-Like Assets. The AF does not typically lease out property that is otherwise available from commercial sources.

1.2.6. Excess Property. Title 10 U.S.C., Section 2667 prohibits the AF from leasing out property which is excess to AF requirements as defined by Section 102 of Title 40 U.S.C., except as otherwise may be provided in subsection 2667(g).

1.2.7. Leasing to U.S. Government Organizations and Contractors. Leasing under this instruction may not be used to provide AF personal property to other U.S. government organizations for any purpose (except, see paragraph 2.4.6), or to provide AF personal property to contractors for the primary purpose of supporting U.S. Government contract requirements.

Chapter 2

EVALUATING THE LEASE REQUEST

2.1. Procedures. Air Force Materiel Command (AFMC) establishes procedures and management controls for evaluating leases requests for non-excess aircraft and aircraft-related equipment. AFMC's procedures can be found on Air Force Contracting Central's SharePoint site under "Aircraft leases to OEMs and other entities." For non-excess personal property other than aircraft and aircraft-related equipment, each Major Command (MAJCOM) establishes their own procedures and management controls for evaluating lease requests. At a minimum, each MAJCOM will evaluate lease requests for non-excess property as described below.

2.2. Elements of a Lease Request. The prospective lessee initiates the lease request and submits it in writing to the cognizant AF activity. At a minimum, the lease request should contain:

- 2.2.1. Identification of the property to be leased (including tail numbers, national stock numbers, or part numbers, if known);
- 2.2.2. Purpose of the lease;
- 2.2.3. Proposed start date and duration of the lease (no more than five years, unless determined a longer period will promote the national defense or be in the public interest IAW Title 10 U.S.C., Section 2667(b)(1));
- 2.2.4. Consideration for the lease;
- 2.2.5. Proposed locations of the lease activity;
- 2.2.6. Expected benefits to the lessee;
- 2.2.7. Expected benefits to the Government;
- 2.2.8. Statement supporting non-availability of suitable commercial items;
- 2.2.9. Information on contacts (if any) with operational units or item managers to ascertain a preliminary assessment of asset availability; and
- 2.2.10. Information or other pertinent facts (e.g., need for valid export licenses, support equipment requirements, intent to modify or otherwise alter the leased equipment).

2.3. Review. Upon receipt of a request to lease non-excess personal property, including aircraft and related equipment, the activity responsible for the property should:

- 2.3.1. Evaluate the request and determine if the proposed lease terms promote the national defense or are in the public interest;
- 2.3.2. Determine whether the property is under the control of the USAF;
- 2.3.3. Determine that the item requested for lease is not excess to USAF requirements;
- 2.3.4. Determine if the aircraft is assigned to a Reserve Component. Confirm compliance with AFI 16-402 paragraph 4.4. Change of Possession;
- 2.3.5. Determine whether the property will be available during the proposed lease period for use on a non-interference basis;

- 2.3.6. Determine if the intended use of the property is appropriate;
- 2.3.7. Determine whether or not to impose any necessary limitations or reservations on its use;
- 2.3.8. Determine whether or not the proposed consideration (lease fees) is adequate (see paragraph 2.4 below);
- 2.3.9. Determine whether the proposed lease would pose any technology disclosure issues, and whether there are security assistance considerations or any guidance from DoD relevant to the lease; and
- 2.3.10. Determine if competitive procedures should be used. If a proposed lease involves only personal property, the lease term will exceed one year, or the fair market value of the lease interest is expected to exceed \$100,000, competitive procedures must be used to select the lessee. To invite competition, the Contracting Officer (CO) shall publish a notice to afford other potential lessees the opportunity to propose alternative lease projects. When publication of a notice suggests competition for a project might exist, the CO shall consult with SAF/AQCK on the use of appropriate competition procedures. When publishing the notice, Federal Acquisition Regulation (FAR) Subpart 5.2 should be used as a guide.

2.4. Assessing Lease Fees. The lessee normally pays the full cost of the lease. Fees include rent, reimbursement for any expense incurred by the U.S. Government in support of the lease and other costs agreed to under the terms of the lease. Title 10 U.S.C., Section 2667 requires payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest. The only exception to this requirement is limited to real and personal property located at military installations to be closed or realigned under a base closure law, as provided in subsection 2667(g).

- 2.4.1. Rent, including fees for depreciation and interest on investment, is payment in cash or in kind by the lessee in an amount not less than the fair market value of the lease interest. The CO determines whether to assess rental fees on a daily, monthly, or yearly basis.
- 2.4.2. Assess flying-hour fees for a leased aircraft to include, among other things, fuel, maintenance, and base support, depending on the leasing situation. Do not assess these fees to the extent they are otherwise provided by the lessee. A lessee who is authorized under the lease to obtain spare parts from the supply system pays the appropriate flying-hour fees or the cost of the parts.
- 2.4.3. Rental fees are set in accordance with DoD FMR 7000.14-R, Vol. 11A, Ch. 4. The Deputy Assistant Secretary for Cost & Economics (SAF/FMC) sets flying-hour fees and rental fees for aircraft, as well as rental fees for other leased property covered by this instruction. When actual costs are not known, reasonable estimates may be used. When the specific item to be leased is identified, fees may be based on supplemental information obtained from the program office. The supplemental information includes the property's: acquisition cost, replacement cost, age, cost of major modifications, and salvage value.
- 2.4.4. Assess rent for equipment leases or for items of equipment the lessee needs to support the major items of leased property. For equipment items, the CO may use the clause in the FAR 52.245-9, "*Use & Charges.*"

2.4.5. SAF/AQ may, in order to promote the national defense or serve the public interest in accordance with DoDI 7230.08, waive cash rental fees for leased equipment in support of air shows or trades exhibitions held outside the United States; or sales demonstrations to representatives of foreign governments. This waiver authority only applies to cash rental fees for the leased property. Regardless of whether or not a cash rental fee is charged, fees for any and all expenses related to the support provided a lessee by the U.S. Government are not waived and are to be reimbursed by the lessee. Consistent with Section 1082 of Public Law 102-484, as amended by Section 1031(d)(2) of Public Law 108-136, and DoDI 7230.08, for leases of equipment to contractors or associations for display or demonstration at international air shows or trade exhibitions, the lessee should agree to reimburse the Treasury of the United States for the costs set forth at DoDI 7230.08 paragraph 4(d). Consideration consisting of reimbursement of all U.S. Government costs--whether or not a cash rental fee is charge--and the national defense or public interest to be served in these cases generally can support a determination and finding (D&F) of not less than fair market value of the lease interest.

2.4.6. Property leases supporting the AF and National Guard Community Relations programs may be approved and executed on a no-cash rental basis when:

2.4.6.1. The recipient of the benefits as listed in DoDI 5410.19, *Public Affairs Community Relations Policy Implementation*, or in the case of the National Guard those recipients authorized by law (Title 32 U.S.C., Section 508), are engaged in nonprofit activity designed for the public safety, health, or welfare;

2.4.6.2. Payment of the full fee by a state, local government, or nonprofit group would not be in the interest of the program; and

2.4.6.3. A local AF official or National Guard United States Property & Fiscal Official makes a written determination that the training value, goodwill and/or other national defense or public interest associated with support of the Community Relations program constitutes in-kind consideration that is not less than the fair market value of the lease interest.

Chapter 3

ELEMENTS OF LEASE AGREEMENTS

3.1. Procedures. AFMC establishes procedures and management controls for creating lease agreements for non-excess aircraft and aircraft-related equipment. AFMC's procedures can be found on Air Force Contracting Central's SharePoint site under "Aircraft leases to OEMs and other entities." For non-excess personal property other than aircraft and aircraft-related equipment, each MAJCOM establishes their own procedures and management controls for creating lease agreements.

3.2. Elements of a Lease Agreement. Leases should be tailored to the specific requirement; however, the following elements should **generally** be captured in the lease agreement:

3.2.1. Transfer, Maintenance, and Return of the Property.

3.2.1.1. The leased property shall not be transferred, encumbered, or used for other purposes without the written consent of the Assistant Secretary of the Air Force (Acquisition).

3.2.1.2. The lease shall specify the time and location where the Air Force will transfer possession of the leased equipment to the lessee and back from the lessee and whether the lease will begin and end with the transfer of possession of the leased equipment, or whether it will begin at another specified time.

3.2.1.3. The leased property will be released to the lessee only after the CO or authorized representative determines that the lessee has implemented procedures to ensure safe and proper storage, maintenance, and operation of the leased property.

3.2.1.4. The lease will specify the location where the equipment will be used by the lessee.

3.2.1.5. The lease will identify any unusual lease provisions, such as permitting the lessee to make modifications to the leased equipment.

3.2.1.6. The lessee will maintain the leased property during the term of the lease in a safe and serviceable condition according to prescribed Department of the Air Force standards or pay the full cost of any such maintenance if the U.S. Government agrees to accomplish the maintenance.

3.2.1.7. The leased property will be furnished "as is" without any warranty, express or implied, as to serviceability, fitness for use, or other matters.

3.2.1.8. The lessee will return all leased property to the Department of the Air Force, at such place as is designated by the CO, in the same condition and configuration as when accepted, except for fair wear and tear. If the Department of the Air Force determines that any of the leased property was not returned in such condition, or has not been maintained according to prescribed Department of the Air Force standards, the lessee shall reimburse the Department of the Air Force for the cost of returning such property to its proper condition, except for fair wear and tear.

3.2.2. Treatment and Responsibility of Costs.

3.2.2.1. The lessee will pay the U.S. Government all rent, costs, and fees associated with the use of the leased property while it is under lease according to applicable Department of Defense and Department of the Air Force directives and instructions and the applicable D&F. No daily rental charge will be assessed for lease projects executed for the purposes of participating in international air shows held outside the US or conducting sales demonstrations for representatives of foreign governments. However, the lease should specify that the lessee will pay for associated costs.

3.2.2.2. The lessee will be responsible for all costs relating to the leased property during the term of the lease, including but not limited to expenses of operation, maintenance, display, demonstration, ferrying, transportation, support, and protection.

3.2.2.3. The lessee will not, directly or indirectly, include in any U.S. Government contract any fees or costs paid by the lessee under the lease authorized hereby, except to the extent authorized under the Federal Acquisition Regulations (e.g. – Foreign Military Sales). Costs charged to the U.S. Government for the leased property under such contracts will not exceed the lessee's costs under the lease. The U.S. Government reserves the right to audit the lessee's books and records used to support any fees or costs that are charged directly or indirectly to the U.S. Government based on this lease.

3.2.2.4. The lessee will assume any responsibility imposed by other U.S. Government agencies, or by foreign governments and their taxing authorities, for certification and registration of the leased property and for payment of any taxes or other fees thereon.

3.2.3. Non-interference Basis and Termination.

3.2.3.1. The leased property is available only on a noninterference basis with U.S. Government requirements.

3.2.3.2. Support provided by the U.S. Government, if any, will be on a noninterference, reimbursable basis, including use of aircrews, support aircraft, equipment, and facilities. Providing and charging for support will be according to applicable Department of Defense and Department of the Air Force directives and instructions.

3.2.3.3. During the term of the lease, the lease status of the leased property may be interrupted from time to time by the Department of the Air Force to make the property available for other U.S. Government activities under U.S. Government contracts with the lessee. During such periods, the property reverts to Government-Furnished Property status under the applicable U.S. Government contract. Any doubt as to the status of the leased property at any particular time will be resolved in favor of lease status, unless otherwise determined by the Department of the Air Force.

3.2.3.4. The Department of the Air Force may revoke this lease at any time. The lessee may terminate the lease at any time upon 15 days prior written notice. If the lease is revoked by the Department of the Air Force or terminated by the lessee, the lessee shall be responsible for its residual responsibilities under the lease (to return leased property, to pay all fees or costs resulting from the lease, to release, defend, indemnify, and hold harmless the U.S. Government, etc.). Upon termination of the lease, the property is returned to the U.S. Government. If the property is not returned to the U.S. Government

as agreed upon by the terms of the lease, the CO should request, in writing, return of the property. A notice of interest should be included in the demand letter. Charging of interest is mandatory under Title 31, U.S.C., and Title 4, Code of Federal Regulations. The interest on the property is calculated on a “daily rate” basis from the date of the first unsuccessful request for the return of the property. The CO should consult with local finance office for the actual rate of interest. In long-term leases, the CO may include a provision in the lease allowing for return of the property whenever the U.S. Government has a requirement for said property.

3.2.4. Liability, Exportability, and Unauthorized Use.

3.2.4.1. The lessee will release the Department of the Air Force, including a release from all consequential damages, and defend, indemnify, and hold the U.S. Government, its agents, officers, and employees harmless from any and all loss and liability (whether in tort or contract) that might arise in connection with the lease because of: (a) injury or death of personnel of the U.S. Government, the lessee, or third parties; and (b) damage to or destruction of property of the lessee or third parties, and leased property, support equipment, or other property of the U.S. Government. The lessee will obtain insurance, or provide for self-insurance, adequate to cover all such liabilities.

3.2.4.2. The lessee will assume the risk of loss, damage, or destruction of the leased property. The lessee’s risk should be covered by insurance or, with the CO’s prior written approval, a plan for self-insurance on the depreciated value of the property. *Applies unless the undersigned determines that the U.S. Government agrees to assume this risk (e.g. when a U.S. Air Force pilot is the pilot-in-command of the leased aircraft).*

3.2.4.3. The lessee shall provide to the CO written evidence of the insurance or plan for self-insurance.

3.2.4.4. The lessee shall secure from the Department of State or other responsible U.S. Government agency any export licenses or other approvals required under the *Arms Export Control Act* or other U.S. law or regulations before using the leased property in connection with the provision of articles or services to a foreign government or other foreign person. The lessee shall provide a copy of said licenses to the CO.

3.2.4.5. The lessee will not use any government equipment contrary to international law including the law of armed conflict, domestic law, or Department of Defense and Air Force policies relating to, or more restrictive than, international law and the law of armed conflict. Furthermore, the lessee will not use any government equipment in inherently military activities such as combat or combat support. This clause does not prohibit the inherent right of self-defense.

3.2.4.6. The lessee shall be liable for any late returns of leased equipment. The daily amount of the late fee will be established by the Contracting Officer in the lease agreement to ensure return of all leased property in the event of default or upon completion or termination of the lease. NOTE: the late fees should normally be higher than the rental rate due to mission impact.

3.2.5. Aircraft-specific (as applicable).

3.2.5.1. The lease will identify whether or not U.S. Government personnel will be pilots in command during flights or operators of the leased equipment. *Applies in the case of leased aircraft.*

3.2.5.2. The lessee shall limit operation and maintenance of the leased property to qualified employees of lessee and shall ensure, if applicable, all lessee flight crewmembers are qualified and maintain currency and proficiency according to AFI 10-220(I), *Contractor Flight and Ground Operations*. In addition, the lessee shall ensure that no civilian visitor is at the controls of the aircraft during any orientation flight, unless specifically approved by the Department of the Air Force.

3.2.5.3. The lessee shall obtain approval in accordance with DoDI 7230.08, before any demonstration, orientation, or evaluation flights for representatives of foreign governments. *Applies only in leases of aircraft contemplating this possibility.*

3.2.5.4. Orientation flights for U.S. Congressional and news media representatives shall be subject to approval according to AFII1- 401, *Aviation Management*. *Applies only in leases of aircraft contemplating this possibility.*

3.2.5.5. A lessee who proposes to fly leased aircraft at an air show shall prepare an air show participation plan for approval by the Department of the Air Force. The plan shall cover all information listed in the sample Air Show Participation Plan (Attachment 3) and be incorporated into the lease (e.g. – attachment thereto). Department of the Air Force approval of, or involvement in, such a plan shall not diminish the lessee's assumption of risk of loss and liability in connection with the lease. *Applies in all leases contemplating air show flights of leased aircraft.*

3.2.5.6. Leases that authorize aerial demonstrations at an air show require the lessee to obtain prior Director of Operations and Training, Headquarters US Air Force (AF/A3O) approval of air show participation plans, including demonstration flight profiles in accordance with AFI 11-209, *Aerial Event Policy and Procedures* (see Attachment 3 of this AFI, Air Show Participation Plan, for required items). The leasing office should identify the US Government contract monitor, brief the monitor on approvals granted the lessee and any limitations that may have been imposed for a particular air show, and provide copies of pertinent documents. In accordance with DoDI 7230.08, direct DoD participation in international airshows and trade exhibitions is only authorized if a determination is made by the Undersecretary of Defense for Policy (USD(P)) that such participation is in the national security interests of the United States.

3.2.5.7. The lessee shall obtain prior approval for orientation flights for foreign nationals or for dignitaries, including members of the Congress and representatives of the U.S. news media according to AFI 11- 401 paragraph 1.9.4.7 and Table 1.1. This requirement applies regardless of which MAJCOM provides the leased aircraft or the location of the flights. In such cases, the lessee shall submit its request to the CO and the CO will coordinate with the MAJCOM A3 which is providing the aircraft to obtain the required approval.

3.2.5.8. The lease will require the lessee to obtain Air Force approval for each project utilizing the leased aircraft even if the individual projects are within the scope of intended use as described in the lease. *Used rarely, but may be used if desired to maintain strict control over use of leased aircraft.*

Chapter 4

APPROVAL AND REPORTING PROCESS

4.1. Approval Process.

4.1.1. Approval Authority. The Assistant Secretary of the Air Force for Acquisition (SAF/AQ) may authorize lease of non-excess USAF aircraft, aircraft-related equipment and other personal property, when SAF/AQ considers it advantageous for the United States, under such terms and conditions as SAF/AQ considers will promote the national defense or be in the public interest. SAF/AQ will indicate approval to lease non-excess personal property by signing a written Determination and Findings (D&F) prepared for each lease request as described by this instruction. The D&F documents will conform to the requirements of law, DoD directives, and this instruction. Authority to waive or deviate from the provisions of this instruction or to delegate leasing authority rests with SAF/AQ. Although SAF/AQ exercises approval authority to lease non-excess personal property, other officials exercise related approval authority as described in this instruction (e.g. approval to export equipment to foreign countries, approval for direct DoD participation at international airshows).

4.1.2. The CO for, and with the assistance of, the requirement activity will prepare a D&F (see sample at Attachment 2) to lease aircraft and related equipment and forward it with supporting information to SAF/AQCK for staffing and SAF/AQ approval. SAF/AQCK will ensure SAF/GCQ coordination is obtained and other SAF offices as needed (e.g. SAF/GCI, SAF/IAG, etc.). Supporting information includes, but is not limited to:

- 4.1.2.1. Lease request;
- 4.1.2.2. Fee analysis;
- 4.1.2.3. Lease agreement;
- 4.1.2.4. Proof of insurance;
- 4.1.2.5. Results of synopsis (if applicable); and
- 4.1.2.6. MAJCOM legal review.

4.1.3. When applicable, the CO concurrently forwards the prospective lessee's Air Show Participation Plan, including demonstration flight profiles, to the Director of Operations and Training, Headquarters U.S. Air Force (AF/A3O) for staffing and approval. SAF/AQCK can assist in securing this approval.

4.1.4. If leasing information technology (IT) equipment, ensure that the equipment has been sanitized IAW guidance contained in AFMAN 33-282 before being released.

4.2. Execution, Distribution, and Reporting. After attaining SAF/AQ approval, the CO will:

- 4.2.1. Execute the lease and forward a signed copy to SAF/AQCK for their records;
- 4.2.2. Forward all international leases for aircraft and related equipment to SAF/IAG; and
- 4.2.3. Notify congressional defense committees IAW the requirements of Title 10 U.S.C., Section 2667(d)(3) for each waiver under Section 2667(d)(2).

4.2.4. Within 90 days after the end of an international trade show or exhibition, the Deputy Under Secretary of the Air Force (International Affairs) Action Group (SAF/IAG) provides to Defense Security Cooperation Agency (DSCA), a list of USAF equipment leased for the event. The total cost charged to training budgets for transportation of equipment to and from the event is provided to DSCA by the appropriate Combatant Command.

Chapter 5

ADMINISTERING THE LEASE

5.1. Procedures.

5.1.1. Payments. The CO should instruct the lessee and appropriate Defense Finance and Accounting Service Office on handling lessee money payments. The payment office will deposit lease payments to a special Treasury receipt account.

5.1.2. Reimbursements. The payment office credits payments for flying-hour fees and reimbursements received for support or services provided by the U.S. Government, to the appropriations of the activities to which the leased property is assigned or which provided the support or service. The payment office will reimburse the supply system with lessee payments for items obtained from the supply system.

5.1.3. In-Kind Rental. The lessee shall make in-kind rental payments in accordance with the terms of the lease and instructions from the CO.

5.2. Inspection Responsibilities. The CO should ensure that:

5.2.1. Contract administration personnel or others are adequately instructed to conduct appropriate oversight during lease performance, as required; and

5.2.2. The activity receiving the property after completion of the lease adequately inspects it to see that the lessee maintained the leased property according to USAF standards.

5.3. Contract Administration Office. After negotiation, the CO delegates the lease to the cognizant contract administration office (CAO) for administration. The CAO ensures that the lessee complies with all the terms and conditions of the lease, including reimbursement to the U.S. Government for cost of any support the lessee receives. It ensures that all lessee flight crewmembers are qualified and maintain currency and proficiency according to AFI 10-220(I). In addition, the CAO ensures the lessee:

5.3.1. Obtains necessary approvals;

5.3.2. Follows maintenance requirements;

5.3.3. Keeps records of property use as a basis for rental fees;

5.3.4. Pays rental and other fees according to the lease agreement; and

5.3.5. Returns the leased property as directed by the CO.

WILLIAM A. LAPLANTE

Assistant Secretary of the Air Force for Acquisition

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFI 10-220(I), *Contractor Flight and Ground Operations*, 1 March 2007

AFI 11-209, *Aerial Event Policy and Procedures*, 04 May 2006

AFI 11-401, *Aviation Management*, 10 December 2010

AFI 16-402, *Aerospace Vehicle Programming, Assignment, Distribution, Accounting, and Termination*, 30 May 2013

AFI 23-119, *Exchange, Sale, or Temporary Custody of Nonexcess Personal Property*, 5 June 2001
AFMAN 33-363, *Management of Records*, 1 March 2008

AFPD 64-1, *The Contracting System*, 7 December 2006

DoDI 7230.08, *Leases and Demonstrations of DoD Equipment*, 2 January 2009

DoDI 5410.19, *Public Affairs Community Relations Policy Implementation*, 13 November 2001

DoD 7000.14-R, *Department of Defense Financial Management Regulation (FMR)*, Vol. 11A, "Reimbursable Operations Policy," Chapter 4, "User Fees", March 2012

DoD 7000.14-R, *Department of Defense Financial Management Regulation (FMR)*, Vol. 12, "Special Accounts, Funds and Programs," Chapter 14, "Transferring, Disposing, and Leasing of Real Property and Personal Property", June 2009

Section 1082 of Public Law 102-484, as amended by Section 1031(d)(2) of Public Law 108-136

Title 10 U.S.C., Section 2667, *Leases: Non-Excess Property of Military Departments and Defense Agencies*

Title 10 U.S.C., Section 2681, *Use of Test and Evaluation Installations by Commercial Entities*

Title 10 U.S.C., Section 2539b, *Availability of Samples, Drawings, Information, Equipment, Materials, and Certain Services*

Prescribed Forms

None

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

Abbreviations and Acronyms

AFI—Air Force Instruction

AFMAN—Air Force Manual

AFMC—Air Force Materiel Command

ANG—Air National Guard

CAO—Contract Administration Office

D & F—Determination and Findings

DOD—Department of Defense

DODI—Department of Defense Instruction

DSCA—Defense Security Cooperation Agency

FAR—Federal Acquisition Regulation

FMR—Financial Management Regulation

HAFMD—Headquarters Air Force Mission Directive

MAJCOM—Major Command

MRTFB—Major Range and Test Facility Bases

OPR—Office of Primary Responsibility

USC—United States Code

USAF—United States Air Force

Terms

“Non-excess personal property”—means personal property under the control of a federal agency, which is required to meet the agency's needs or responsibilities, as determined by the head of the agency.

“Excess personal property”—means personal property under the control of a federal agency that the head of the agency determines is not required to meet the agency's needs or responsibilities.

“Lease”— (*in the context of this instruction*) is an agreement by the owner (the lessor) to provide non-excess personal property to another party (the lessee) who will use the property for compensation or hire purposes. A lease gives exclusive possession of the property for a specified term in return for rent or other consideration paid to the owner. A lease is not an agreement for sale of the property.

“Personal property”—is any property not considered real property.

“Real property”—means land, buildings, structures, utility systems, improvements, and appurtenances. Includes equipment attached to and part of buildings and structures, such as heating systems, but not movable equipment, such as plant equipment.

Attachment 2

SAMPLE SECRETARIAL DETERMINATION AND FINDING (D&F)

DEPARTMENT OF THE AIR FORCE

DETERMINATION AND FINDINGS

Authority to Lease United States Government Property

Pursuant to Title 10 United States Code (U.S.C.), Section 2667 and the authority delegated to me by the Secretary of the Air Force, I have reviewed the request to have the Department of the Air Force lease _____ (*specify property*) to _____ (*name of non-Government entity*) from the period _____ to _____ (*term of lease*) for the purpose of _____ (*i.e. describe the lessees intended use specifying whether the equipment will be used in static or aerial*). I have found that the property to be leased is in fact not excess Air Force property and the proposed lease agreement includes the elements required by Air Force Instruction (AFI) 64-103, *Leasing Non-Excess USAF Aircraft, Aircraft-Related Equipment and Other Personal Property to Non-Government Organizations*.

Pursuant to Title 10 U.S.C., Section 2667, I have found that the property to be leased is under the control of the Department of the Air Force and is not excess property as defined by Title 40, U.S.C., Section 102. I have found that the cash rent and other consideration has been determined to be not less than the fair market value of the lease interest. Additionally, I have found that appropriate competitive procedures were followed and are documented in the contract file.

[If the proposed lease entails consideration in an amount less than fair market value, replace the second sentence of the second paragraph with the following: I have found that the consideration for this lease has been determined to be less than the fair market value of the lease interest; however, it has been determined that (insert the basis for the exception to the statutory requirement for receipt of consideration in an amount not less than the fair market value of the lease interest).

[If the proposed lease was not subject to competitive procedures, replace the third sentence of the second paragraph with the following: I have found that competitive procedures were not applicable for this due to (insert the basis for non-competitive procedures).

Therefore, I determine the above-described lease of such property to be advantageous to the United States and such terms to be in the public interest.]

The Director for Contracting, (*name of the organization*), or designated contracting officer, is authorized to execute a lease according to this Determination and shall conform to the findings specified above.

Date

Signature of Assistant Secretary of the Air Force (Acquisition)

Attachment 3

AIR SHOW PARTICIPATION PLAN

A3.1. Prior to any flight performed for demonstration, exhibition, practice, or evaluation purposes at a scheduled air show as authorized elsewhere in this lease, the lessee shall obtain, through the Contracting Officer, the approval of the Director of Operations and Training (AF/A3O) for an Air Show Participation Plan covering the following:

A3.1.1. Detailed schedule of planned use of the leased aircraft;

A3.1.2. The names and qualifications of the pilots who are scheduled to fly the aircraft in practice, deployment or redeployment, and air show flights. This includes any civilian visitor anticipated to be at the controls of the aircraft during orientation flights;

A3.1.3. Specific information on the qualifications of other crewmembers who may be needed;

A3.1.4. The names, qualifications, and exact duties of contractor supervisors who may in any way manage and control the U.S. Air Force aircraft while it is leased;

A3.1.5. The intended flight profiles planned for:

A3.1.5.1. Favorable weather conditions (*specify favorable weather conditions for subject aircraft*);

A3.1.5.2. Weather conditions less than favorable but above the air show minimums, USAF flight rules, and the aircraft handbook (technical order) limitations; include request for waiver of aircraft weather minimums, if applicable; and

A3.1.5.3. Alternate modified profiles for both weather conditions that would be flown if air show authorities limit flight time due to scheduling problems.

A3.1.6. Provisions for ensuring adequate preflight rest for the pilot (or pilots) and other crewmembers. This discussion includes how the flight crews (pilots) will be isolated from potential marketing or other possible pressures that may be expected;

A3.1.7. Specific schedule and attendees at preflight planning, preflight briefings, and post flight debriefings;

A3.1.8. Means of providing a visual record of all practice flights and air show demonstrations;

A3.1.9. Means of providing maximum flight data recorder coverage (if subject aircraft is normally equipped with a flight data recorder) of all practice flights and air show flight demonstrations;

A3.1.10. Provisions for ensuring the pilot who flies the aircraft wears suitable flight clothing for maneuvers (such as anti-G suit);

A3.1.11. Specifics on each nonstandard configuration of the leased aircraft; and

A3.1.12. A list of each item of equipment or stores the Lessee intends to incorporate in or use to support the leased aircraft, other than U.S. Air Force standard equipment or approved stores list;

A3.2. Lessee's initial proposal and any revised proposals for inclusion in the Air Show Participation Plan shall be submitted to the Contracting Officer.

A3.3. The Lessee shall comply with the provisions of the approved Air Show Participation Plan for all air show demonstrations, exhibition, and evaluation flights performed with the leased property during the term of this lease at, or in the general vicinity of, the air show and for all practice and pilot qualification flights performed during the term of this lease in preparation for such demonstration, exhibition, or evaluation.

A3.4. The Lessee shall permit the Contracting Officer's Representative (COR) or a delegate, as appointed by the U.S. Government for this lease, to monitor air show participation under this lease. The COR should have access to the leased aircraft and maintenance and staging areas during the entire period of air show participation and during all periods of practice or qualification for air show participation as authorized under this lease.

A3.5. The COR shall be considered an element of U.S. Air Force support, whose costs are charged to the Lessee as lease support costs.

A3.6. The Lessee shall submit to the Contracting Officer, within 30 days after the completion of the air show, a lease completion report explaining any problems encountered in aircraft practice and participation flights and recommending changes in procedures to improve the safety of U.S. Air Force aircraft leased for air show participation in the future. The Lessee shall also, at the written request of the Contracting Officer and at no cost to the U.S. Government under the lease, provide to the U.S. Government two copies of all visual records and flight recorder data of all practice flights and air show demonstrations as called for above.

A3.7. The Lessee shall advise the Contracting Officer if it plans to participate in static displays or flights demonstrations at the air show. The COR will designate a time and place for Lessee personnel to receive a cautionary briefing on the military security requirements and other sensitive areas related to the leased aircraft and equipment.

A3.8. The following language shall be included in the plan: "It is mutually understood and agreed that the sole purpose of this plan is to give the U.S. Government full knowledge of the intended use of the leased property and an opportunity to observe the Lessee's compliance with its proposed plan. The Lessee acknowledges and agrees that the U.S. Government makes no warranty that the approved plan is safe and that the U.S. Government assumes no risk of loss or liability to third parties that may arise even if the Lessee adheres to the approved plan. This plan creates no exceptions to the Lessee's obligations to assume risk of loss and third party liability, including obtaining insurance, as set out fully elsewhere in this lease."